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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/612,254

07/02/2003

Michael Lambright

121046-001

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7590

11/14/2006

BUTZEL LONG
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SUITE 300
ANN ARBOR, MI 48104

EXAMINER

ADAMS, GREGORY W

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/612,254

Applicant(s)

LAMBRIGHT, MICHAEL

Examiner

Gregory W. Adams

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-9 and 11-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-9 and 11-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Although applicant recites a spare tire carrier, claim 21 requires a tire mounting bracket. It would be better to recite a spare tire mounting bracket for clarity.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-9, 11-22 is rejected under 35 U.S.C. 102(b) as being anticipated by Chandler (US 3,760,965).

With respect to claims 1, 9 & 18-20 & 22, referring to FIGS. 16-17 Chandler discloses a support arm 23 having an axis and capable of supporting a spare tire, and further discloses an upper planar guide plate 53 attached to an upper tubular member 27F, lower planar guide plate 59 attached to a lower tubular assembly (61 in FIG. 7) wherein an upper plate is coupled to a lower plate for relative rotational movement for rotating an arm 23 about a common axis 55 and a support arm central axis (see FIGS. 16-17).

It is noted that although Applicant recites a spare tire carrier Applicant merely recites an arm with the body of claim 1 and does not positively recite structure that defines spare tire engaging structure. Thus, Chandler's motorcycle carrier arm is capable of supporting a spare tire.

With respect to claims 3-5 & 11-13, Chandler discloses upper and lower tubular members each have a central axis and are attached at an angle that is non-perpendicular (FIG. 7, angle α) and are collinear and hollow.

With respect to claims 6-7 & 14-15, Chandler discloses an axially central element 65 having threads.

With respect to claims 8 & 16, Chandler discloses a latch mechanism 41.

With respect to claim 17, Chandler discloses an arm 23 that includes structure that engages a latch mechanism 41.

With respect to claim 21, Chandler discloses a tire mounting bracket 79. It is noted that a "central portion" is any portion that includes the center, e.g. anything but the extremity, and at least a portion that includes Chandler's bracket 79 as it is spaced in from the end of arm 23. Further, claim 21 merely requires a tire mounting bracket without regard to particular structure which defines over Chandler's bracket 79.

Response to Arguments

Applicant's arguments with respect to claims 1, 3-9 & 11-20 have been considered but are moot in view of the new ground(s) of rejection. The Examiner does not agree with Applicants interpretation.

"Upper" and "lower" without regard to other structure is interpreted as disclosed by the cited prior art. For example, Chandler's upper tubular member 27F is at least above upper guide plate 53, upper guide plate 53 is at least above lower guide plate 59 and lower tubular member (indicated generally as 61) and lower guide plate are at least below arm 23. Applicant likely intends the tubular members and plates to be defined

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relative to each other and the arm but that is not the only definition that can be interpreted from the claims.

With respect to tubular members, we need only a structure that defines a tube. Chandler's tubes 27 & 61, 63 are clearly tubes as they define walls with a hollow middle. Applicant argues that Chandler's plates 61 & 63 are not tubes but plates, but Chandlers plates 61, 63 along with the underside of arm 23 define a body having walls and a hollow middle.

Applicant argues that Chandler's tubular structure must be separate from that of other structure, that plates 61 & 63 cannot utilize channel 23 to complete the tube. Broadly interpreted claims 1 & 9 merely require that the tubular assembly (more specifically either the upper or lower tubular member as either may couple to the arm) be coupled to a support arm. Chandler's tubular assembly 61, 63 is coupled to channel 23 thus completing the third side of lower tubular assembly. Moreover, merely inserting a third plate to connect sides 61 & 63 and complete the tube is unnecessary. One skilled in the art would logically conclude that a third plate is unnecessary additional expense and merely connect sides 61 and 63 to arm 23 eliminating a the expense.

Finally, with respect to claims 1 & 9 it is noted that the tubular structure provides no benefit beyond that of connecting guide plates to the arm. The guide plates rotate relative to each other to provide motion to arm 23. Thus, a channel or solid rod could connect said plates to arm as effectively.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (571) 272-8101. The examiner can normally be reached on M-Th., 8:00-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GWA



EILEEN D. LILLIS
SUPERVISORY PATENT EXAMINER
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